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4. Receivers (§ 155*)—Payment of Claims—Priorities—Expenses.—Though the bill for a receiver was filed by the trustees for creditors, to whom an insolvent company made an assignment, yet, the receivership being at the instance and for the benefit of the bondholders of the company, that it might, if possible, be sold as a going concern, expenses incurred in an effort to carry on the business through the receivers will be preferred in distribution of the assets to the claim of the bondholders, by reason of their having had to pay under a bond given by them to have a steamer of the company released from a libel which had been sued out against it, before the assignment, though the court, by its decree authorizing the receivers to have the steamer released, provided, if said bondholders had to pay the libelant anything in accordance with the terms of the bond, they should be subrogated to libelant's right of priority of payment out of the proceeds of the steamer.

[Ed. Note.—For other cases, see Receivers, Cent. Dig. §§ 474-476; Dec. Dig. § 155.*]

Appeals from Hustings Court of Petersburg.

Suit was filed by Bartlett Roper, Jr., and J. A. C. Groner, trustees, against the Phillips Line and others, for a receivership. From a decree ruling on exceptions to a master commissioner's report filed in such suit, two appeals, one by the Jackson Coal & Coke Company and others, and the other by Joseph W. Seward and Le Roy Roper, are taken. Reversed and remanded.

In Appeal of Jackson Coal & Coke Company et al.:

Hughes & Little, Willcox & Willcox, Harry E. McCoy, and W. McK. Woodhouse, for appellants.

Carl H. Davis, Richard B. Davis, Chas. E. Plummer, Wm. B. McIlwaine, and *Geo. Mason*, for appellees.

In Appeal of Seward & Roper:

Carl H. Davis, Richard B. Davis, and Paul Pettit, for appellants.

Hughes & Little, Willcox & Willcox, Harry E. McCoy, W. McK. Woodhouse, and W. B. McIlwaine, for appellee.

HONAKER v. STARKS.

Sept. 9, 1912.

[75 S. E. 741.]

1. Wills (§ 449*)—Construction—Property Disposed of.—Where testatrix owning five shares of stock in a bank, disposed of her estate,

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

real and personal, to a number of devisees and legatees, and her will, containing no residuary clause, gave to a beneficiary named "my stock (one share)" in a bank, the gift of the stock included all the shares of stock.

[Ed. Note.—For other cases, see Wills, Cent. Dig. § 965; Dec. Dig. § 449.*]

2. Wills (§ 463*)—Construction—Property Disposed of.—Where the subject of a gift in a will is sufficiently and clearly ascertained, effect will be given to the gift, notwithstanding any added particulars of description, which are found to be false or mistaken.

[Ed. Note.—For other cases, see Wills, Cent. Dig. § 982; Dec. Dig. § 463.*]

3. Wills (§ 449*)—Construction—Intestacy.—Where a will is subject to two constructions, the construction which will prevent total or partial intestacy will be preferred.

[Ed. Note.—For other cases, see Wills, Cent. Dig. § 965; Dec. Dig. § 449.*]

Appeal from Circuit Court, Bland County.

Suit between J. D. Honaker, administrator of Rebecca J. Hicks, deceased, and C. J. M. Starks. From a decree for the latter, the former appeals. Affirmed.

Williams & Williams, for appellant.

A. R. Poterfield and W. J. Henson, for appellee.

ELY et al. v. JOHNSON et al.

Sept. 9, 1912.

[75 S. E. 748.]

1. Equity (§ 39*)—Jurisdiction—Complete Relief—Restraining Trespass on Real Estate.—Where the primary object of a suit is to enjoin trespasses on real estate involving irreparable injury, and the quieting of title and removal of clouds are merely incidental, the court may grant complete relief, though plaintiff does not allege and prove that he has both the legal title and possession which is essential to a decree quieting title as primary relief, since equity when acquiring jurisdiction of a case on equitable grounds, will grant complete relief.

[Ed. Note.—For other cases, see Equity, Cent. Dig. §§ 104-114; Dec. Dig. § 39.*]

2. Injunction (§ 35*)—Restraining Trespasses on Real Estate—Title.—A plaintiff suing to restrain a trespass on real estate involving irreparable injury need only show a prima facie title, and he need not allege that his title is undisputed, or has been adjudicated.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.